



April 1, 2005

ENGROSSED SENATE BILL No. 47

DIGEST OF SB 47 (Updated March 30, 2005 3:57 pm - DI 69)

Citations Affected: IC 34-24; IC 35-43.

Synopsis: Counterfeiting and forgery. Provides that a person who knowingly or intentionally: (1) makes or utters a counterfeit written instrument; or (2) possesses more than one counterfeit written instrument; commits counterfeiting, a Class D felony. Specifies that a person who possesses a counterfeit written instrument with the intent to defraud commits forgery, a Class C felony. Allows forfeiture of property used to commit forgery or counterfeiting.

Effective: July 1, 2005.

Wyss, Bray, Ford
(HOUSE SPONSORS — ULMER, FOLEY, DVORAK)

January 4, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 19, 2005, amended, reported favorably — Do Pass.

January 24, 2005, read second time, ordered engrossed. Engrossed.

January 25, 2005, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Courts and Criminal Code.

March 31, 2005, reported — Do Pass.

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April 1, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 47

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-24-1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following
3 may be seized:

4 (1) All vehicles (as defined by IC 35-41-1), if they are used or are
5 intended for use by the person or persons in possession of them to
6 transport or in any manner to facilitate the transportation of the
7 following:

8 (A) A controlled substance for the purpose of committing,
9 attempting to commit, or conspiring to commit any of the
10 following:

11 (i) Dealing in or manufacturing cocaine, a narcotic drug, or
12 methamphetamine (IC 35-48-4-1).

13 (ii) Dealing in a schedule I, II, or III controlled substance
14 (IC 35-48-4-2).

15 (iii) Dealing in a schedule IV controlled substance
16 (IC 35-48-4-3).

17 (iv) Dealing in a schedule V controlled substance

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- 1 (IC 35-48-4-4).
 2 (v) Dealing in a counterfeit substance (IC 35-48-4-5).
 3 (vi) Possession of cocaine, a narcotic drug, or
 4 methamphetamine (IC 35-48-4-6).
 5 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).
 6 (viii) Dealing in marijuana, hash oil, or hashish
 7 (IC 35-48-4-10).
 8 (B) Any stolen (IC 35-43-4-2) or converted property
 9 (IC 35-43-4-3) if the retail or repurchase value of that property
 10 is one hundred dollars (\$100) or more.
 11 (C) Any hazardous waste in violation of IC 13-30-6-6.
 12 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass
 13 destruction (as defined in IC 35-41-1-29.4) used to commit,
 14 used in an attempt to commit, or used in a conspiracy to
 15 commit an offense under IC 35-47 as part of or in furtherance
 16 of an act of terrorism (as defined by IC 35-41-1-26.5).
 17 (2) All money, negotiable instruments, securities, weapons,
 18 communications devices, or any property used to commit, used in
 19 an attempt to commit, or used in a conspiracy to commit an
 20 offense under IC 35-47 as part of or in furtherance of an act of
 21 terrorism or commonly used as consideration for a violation of
 22 IC 35-48-4 (other than items subject to forfeiture under
 23 IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):
 24 (A) furnished or intended to be furnished by any person in
 25 exchange for an act that is in violation of a criminal statute;
 26 (B) used to facilitate any violation of a criminal statute; or
 27 (C) traceable as proceeds of the violation of a criminal statute.
 28 (3) Any portion of real or personal property purchased with
 29 money that is traceable as a proceed of a violation of a criminal
 30 statute.
 31 (4) A vehicle that is used by a person to:
 32 (A) commit, attempt to commit, or conspire to commit;
 33 (B) facilitate the commission of; or
 34 (C) escape from the commission of;
 35 murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal
 36 confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting
 37 (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense
 38 under IC 35-47 as part of or in furtherance of an act of terrorism.
 39 (5) Real property owned by a person who uses it to commit any of
 40 the following as a Class A felony, a Class B felony, or a Class C
 41 felony:
 42 (A) Dealing in or manufacturing cocaine, a narcotic drug, or

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- 1 methamphetamine (IC 35-48-4-1).
 2 (B) Dealing in a schedule I, II, or III controlled substance
 3 (IC 35-48-4-2).
 4 (C) Dealing in a schedule IV controlled substance
 5 (IC 35-48-4-3).
 6 (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
 7 (6) Equipment and recordings used by a person to commit fraud
 8 under IC 35-43-5-4(11).
 9 (7) Recordings sold, rented, transported, or possessed by a person
 10 in violation of IC 24-4-10.
 11 (8) Property (as defined by IC 35-41-1-23) or an enterprise (as
 12 defined by IC 35-45-6-1) that is the object of a corrupt business
 13 influence violation (IC 35-45-6-2).
 14 (9) Unlawful telecommunications devices (as defined in
 15 IC 35-45-13-6) and plans, instructions, or publications used to
 16 commit an offense under IC 35-45-13.
 17 (10) Any equipment used or intended for use in preparing,
 18 photographing, recording, videotaping, digitizing, printing,
 19 copying, or disseminating matter in violation of IC 35-42-4-4.
 20 (11) Destructive devices used, possessed, transported, or sold in
 21 violation of IC 35-47-5.
 22 (12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes
 23 that a person attempts to sell in violation of IC 24-3-5.2, and other
 24 personal property owned and used by a person to facilitate a
 25 violation of IC 24-3-5.2.
 26 (13) Tobacco products that are sold in violation of IC 24-3-5,
 27 tobacco products that a person attempts to sell in violation of
 28 IC 24-3-5, and other personal property owned and used by a
 29 person to facilitate a violation of IC 24-3-5.
 30 **(14) Property used by a person to commit counterfeiting or**
 31 **forgery in violation of IC 35-43-5-2.**
 32 (b) A vehicle used by any person as a common or contract carrier in
 33 the transaction of business as a common or contract carrier is not
 34 subject to seizure under this section, unless it can be proven by a
 35 preponderance of the evidence that the owner of the vehicle knowingly
 36 permitted the vehicle to be used to engage in conduct that subjects it to
 37 seizure under subsection (a).
 38 (c) Equipment under subsection (a)(10) may not be seized unless it
 39 can be proven by a preponderance of the evidence that the owner of the
 40 equipment knowingly permitted the equipment to be used to engage in
 41 conduct that subjects it to seizure under subsection (a)(10).
 42 (d) Money, negotiable instruments, securities, weapons,

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communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance) as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 2. IC 35-43-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. **(a) A person who with intent to defraud, knowingly or intentionally:**

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(1) (A) by another person;

(2) (B) at another time;

(3) (C) with different provisions; or

(4) (D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits ~~forgery~~ counterfeiting, a ~~Class C~~ Class D felony.

(b) A person who, with intent to defraud, makes, or utters, or possesses a written instrument in such a manner that it purports to have been made:

(1) by another person;

(2) at another time;

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- 1 (3) with different provisions; or
- 2 (4) by authority of one who did not give authority;
- 3 commits forgery, a Class C felony.

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SENATE MOTION

Madam President: I move that Senator Ford be removed as second author of Senate Bill 47.

FORD

SENATE MOTION

Madam President: I move that Senator Bray be added as second author and Senator Ford be added as coauthor of Senate Bill 47.

WYSS

COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 47, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 47 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 47, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

ULMER, Chair

Committee Vote: yeas 9, nays 0.

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